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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/072,525	02/05/2002	Karla Robotti	10011206	2898

22878 7590 02/08/2005

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EXAMINER

NGUYEN, QUANG

ART UNIT PAPER NUMBER

1636

DATE MAILED: 02/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

10/072,525

Applicant(s)

ROBOTTI, KARLA

Examiner

Quang Nguyen, Ph.D.

Art Unit

1636

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 13 December 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. **ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).**

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☒ A Notice of Appeal was filed on 20 December 2004. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:


Claim(s) allowed: 44.

Claim(s) objected to: 1-6, 16-21, 24, 26, 27, 33-36 and 41-43.

Claim(s) rejected: 9, 14, 15, 28-32, 37-40, 45-56, 58 and 59.

Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____


DAVID GUZE
PRIMARY EXAMINER

Continuation of 2. NOTE: Amended claims 9, 45, 52, 56 and their dependent claims would raise new issues and new grounds of rejections (e.g. 112, second paragraph rejections). For example, how is the step of forming the porous inorganic matrix in situ in a microanalytical device of the proposed claim 9 consistent with the microanalytical device prepared according to the method of claim 44 in which the sol gel is crushed to particulates having a specific diameter range and forming the particulates into a bed or on the surface of the microanalytical device? Additionally, how does the step of the sol-gel being placed in or on the microanalytical device in the proposed claim 45 have anything to do with the method of claim 44? In the proposed claim 52, it is unclear what is encompassed by the term "the sol-gel". Please note that the microanalytical device prepared according to the method of claim 44 contains sol-gel particulates having a diameter of from about 10 microns to about 80 microns.

Continuation of 5. does NOT place the application in condition for allowance because: the proposed amendment filed on 12/13/04 has not been entered for the reasons already set forth above.

Applicants' arguments are solely related to the proposed amended claims which have not been entered. Accordingly, Applicants' arguments are moot.